

EXHIBIT

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Pursuant to M.D.N.C. Local Rule 7.1(e), the non-essential materials contained in the original document have been extracted.

Athletic Policy Manual

of

Duke University

Revised, May 2007

Pursuant to M.D.N.C. Local Rule 7.1(e), the non-essential

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I. GENERAL

A. Mission Statement for Intercollegiate Athletics

The University endeavors to provide a program of intercollegiate athletics from which participating students can derive all the benefits that participation in competitive sports confers. The goal of the intercollegiate program is the same as that of the University's academic programs: excellence. In this context, excellence includes commitment to the physical and emotional well-being and social development of student-athletes as well as to the development of their sense of citizenship, dedication to sportsmanship and fair play, the development of individual and team skills, the exertion of best effort, the will to win, and general conduct that brings credit to the University and is a source of pride and enthusiasm for all members of the Duke community.

The measure of excellence when applied to intercollegiate athletics means also a level of performance that frequently will produce winning seasons and the realistic opportunity to compete for team or individual championships. It requires that students engaged in intercollegiate athletics be students first, that they be admitted according to this criterion, that they progress satisfactorily toward a degree, and that their attrition and graduation rates as student-athletes not be significantly different from those of non-athletes.

Duke's intercollegiate program shall be composed of nationally or regionally recognized sports that satisfy the following criteria: they meet the needs, interests, and abilities of male and female students; they provide adequate institutional collateral benefits; they reflect due regard for the athletic traditions of Duke University as well as future promise; they fall within Duke's abilities to provide appropriate facilities; they geographically allow Duke to schedule conveniently and competitively; and they fall within financial capabilities of Duke University to fund adequately.

The mission of the athletics program ultimately, is that of Duke itself: "to engage the mind, to elevate the spirit, and stimulate the best effort of all who are associated with the University."

B. Introduction

This Manual contains the policies and procedures regarding intercollegiate and club sport programs of Duke University. All sections of this Manual, except "The Board of Trustees Policy for Athletics" (See II) and "The Athletic Council," (See III, B) are administrative matters under the control and direction of the President, and may be modified by the President without referral to the Board.

An annual review of this Manual will be conducted by the Athletic Council. A written report recommending changes will be made to the President annually. The President will respond, presenting appropriate matters to the Board of Trustees at his or her discretion.

Changes in this Manual will be made only by the President or Board of Trustees. Changes in policy approved by the President or Board of Trustees will be incorporated in the Manual in an appropriate manner.

Duplicate official copies will be maintained in the President's Office, the University

Secretary's Office, the Office of the Secretary of the Athletic Council, and the Office of the Director of Intercollegiate Athletics and Club Sports (hereinafter referred to as Director of Athletics).

Copies will be furnished to each Athletic Council member, and will be available to others in the Duke community by display on appropriate websites or upon request to the Chair of the Athletic Council.

C. Authority for Athletic Policy

The athletic policy of Duke University is established by the Board of Trustees on recommendation by the President. Administration of the policy is under the direct control of the President through the Director of Athletics. The President has two immediate sources of advice and support: the Athletic Council and its Chair and the Athletic Director.

II. TRUSTEE RESPONSIBILITY

A. The Board of Trustees Policy for Athletics

The University should provide a program of athletics for its students involving intercollegiate athletics, club sports, intramural athletics, and opportunities for individual athletic performance, from which participating students can derive a beneficial experience. The goals of its programs are the same as those of its academic programs: excellence (meaning credible academic performance of participants), dedication to sportsmanship and fair play, the development of individual and team skills, the exertion of best effort, the will to win, and general conduct that brings credit to the University.

The measure of "excellence" when applied to intercollegiate athletics means also a competitive performance in each team sport that frequently will produce winning seasons and the opportunity realistically to compete for team or individual championships. It also assumes that the institutional collateral benefits from such a program of excellence are not to be measured solely by the benefits to participating students, but will reflect levels of performance in which the Duke community can take pride, and which has a spectator following and interest that will produce positive attitudes and general support from alumni and other friends. It requires that students engaged in intercollegiate athletics be students first, that they be admitted according to this criterion, that they progress satisfactorily towards a degree, and that their attrition rates as student athletes not be significantly different from those of non-athletes.

Such an intercollegiate program should be composed of nationally or regionally recognized sports that satisfy the following criteria: they are necessary to meet the needs, interests, and abilities of male and female students at Duke; they provide adequate institutional collateral benefits; they reflect due regard for the athletic tradition of Duke University as well as future promise; they fall within Duke's abilities to provide appropriate facilities; they geographically allow Duke to schedule conveniently and competitively; and they fall within financial capabilities of Duke University to fund appropriately. Such a program may require participation in fewer sports at a higher level of performance. It recognizes that a significant number of participating students will not be recipients of grants-in-aid.

Excellence in club sports at Duke means a broad and appropriately supported program of sports in which students who were selected at Duke without consideration of their athletic ability may participate as an extracurricular activity. It implies reasonable access to appropriate facilities and equipment, adequate precautions against injury, and University financial support to cover matters such as rental fees, insurance, replacement of equipment, facilities upkeep, trainers, and, where appropriate, volunteer coaches. The Administration will establish procedures for authorizing activities to be included in the University Club Sports Program.

III. ADMINISTRATIVE RESPONSIBILITY

The President has implemented the Board policy through this Manual. The Board policy, among other items, requires:

- ## B. The Athletic Council

The Board of Trustees reconstituted the Duke University Athletic Council on December 10, 1971. Previously, the Athletic Council was reconstituted by the Executive Committee on January 8, 1949 by a resolution that changed the structure of the original Athletic Council established in June 1907. The Board again changed the structure to conform with amended NCAA requirements on February 28, 1974. The composition and responsibilities of the Council are now governed by resolutions enacted on September 24, 1983, and on February 24, 2007.

1. Composition

The Athletic Council shall be composed as follows:

- a. A Chair, chosen by the President from the faculty who serve on the Athletic Council (see b. below), after consultation with the Executive Committee of the Academic Council.
- b. Seven faculty members, appointed for three-year terms by the President after receiving a nomination or nominations from the Executive Committee of the Academic Council. Faculty terms will be staggered so that at least one faculty member will be appointed each year. Individuals may be re-appointed. One faculty member appointed under this subdivision shall be elected by the Council as vice-chair, preferably one whose term is to expire in one year;
- c. Two faculty members who are serving as undergraduate deans shall be appointed annually by the President after consultation with the Executive Committee of the Academic Council;
- d. Two students appointed by the President upon advice of the Graduate and Professional Student Council (GPSC);
- e. One student, appointed annually by the President in alternate years, from the Graduate School or one of the professional schools of the University;
- f. One student representing the Club Sports Council;
- g. Three alumni, one of whom is elected annually by the Board of the General Alumni Association, for a term of three years, without right of succession;
- h. Two trustees, one of whom may be emeritus, selected for two-year terms by the Chair of the Board of Trustees;
- i. Three representatives of the University Administration, who may or may not be members of the faculty, selected annually by the President;
- j. The Director of Alumni Affairs shall serve as the Secretary of the Council.
- k. The Faculty Athletics Representative serves as an *ex officio* member of the Council.

2. Committees

- a. The Academic Committee shall consist of all faculty members of the Athletic Council, elected according to paragraphs a, b c, and k.

above, and shall have the responsibility of enforcing and monitoring, but not administering, scholarship, athletic, admissions, and grants-in-aid requirements of the University for participation in intercollegiate sports, under such policies as shall be established by the Provost. No requirement at Duke shall be less stringent than the eligibility rules of the Atlantic Coast Conference and the National Collegiate Athletic Association. This committee will conduct an annual, comprehensive analysis of the admissions profiles, class performance, and graduation rates for student-athletes. Further, this committee shall review applicable policies and practices where appropriate and shall conduct periodic review of athletics academic support services. Finally, members of this committee will conduct annual student athlete exit interviews. This committee shall provide an annual report to the Provost and its findings shall be included in the annual report to the President. The chair of the Athletic Council will serve as chair of the committee.

- b. The Executive Committee of the Athletic Council shall be designated by the President, and be composed of the Chair, the Vice Chair, and the Secretary of the Council, one additional faculty member whose term at time of original appointment has remaining at least two years, the Faculty Athletics Representative, one trustee, one student, one alumnus, one member of the University Administration, and one academic Dean. The committee will meet annually with the President and the Provost to set major Council agenda items for the year ahead.
- c. The Compliance Oversight committee shall be chaired by the Faculty Athletics Representative and be composed of the Chair of the Athletic Council, the University Registrar, the Director of Undergraduate Admissions, the Director of the Office of Undergraduate Financial Aid, and two additional members of the Council to be designated by the Chair of the Council. This committee shall seek to ensure that the University is exercising adequate "institutional control" over athletics, as defined in the "Principles of Institutional Control as Prepared by the NCAA Committee on Infractions" (February 6, 1996). It shall meet at least once a semester with the chief compliance administrator in the Department of Athletics to review compliance policies and procedures. Its findings shall be included in the annual report to the President.

3. Duties

The Athletic Council shall meet at least once each semester, and at such other times as it shall determine. The functions of the Council shall be performed by its Executive Committee between the dates of the scheduled meetings of the Council. The council shall:

- a. Promote an understanding of intercollegiate athletics among faculty members and other members of the Duke community.
- b. Promote the adoption and maintenance of strict academic standards at Duke University, and in the NCAA and the ACC By-laws, regulations, and legislation.
- c. Provide general oversight of the athletic budget and review in the spring of each year the projected athletic budget forecast with the Director of Athletics, giving him or her and the President the benefit of its advice concerning allocations of funds for different athletic purposes within the limits of funding made available by the University.
- d. Make recommendations to the President concerning persons to serve as Director of Athletics and to assist the Director of Athletics in the selection of head coaches in the various sports consistent with the provisions of Section IV, L.
- e. Report to the President annually concerning the status and prospects of intercollegiate athletics at Duke; review annually the Athletic Policy Manual and make a written report to the President of recommended changes.
- f. Monitor compliance with Title IX in athletic matters as a shared responsibility with the Director of Athletics. The University Counsel has the primary responsibility for compliance with Title IX provisions. The University Counsel will furnish advice to the Athletic Council. The Chair shall also call on the Vice President for Institutional Equity for additional advice and recommendations.
- g. Review the reports of its Academic and Compliance Committees, and take appropriate action.
- h. Provide advice to the Director of Athletics concerning athletic schedules and the award of letters earned by members of athletic teams.
- i. Determine, with concurrence of the Director of Athletics, what sports shall be classified as intercollegiate; provided that if a new sport is added, it will normally be as a replacement of an existing intercollegiate sport, or the required funds must, to the satisfaction of the President, be identified and provided exclusive of appropriations from the general University budget; determine, with concurrence of the Director of Athletics, what sports shall be dropped as intercollegiate sports and classified as club sports.
- j. Determine whether to accept invitations to post-season events, special holiday games, or other events outside the regular season

schedule, after receiving the advice of the Director of Athletics, provided that each team shall approve before any invitation is accepted.

- k. Make recommendations to the President, Provost, and appropriate faculty bodies concerning eligibility requirements for participation in intercollegiate athletics and the award of financial assistance.

4. Responsibilities of Chair of the Athletic Council

The Athletic Council has a chair, selected by the President from the seven faculty members appointed to the Council. The President will consult with the Executive Committee of the Academic Council and seek its advice in the selection of the Chair. The duties of the Chair include:

- a. Preside over and assure the efficient functioning of the Athletic Council;
- b. Meet with the Executive Committee of the Academic Council at least once a semester and make two presentations each academic year to the Academic Council.
- c. Bring the Director of Athletics and Athletic Council together on matters of mutual responsibility;
- d. Assure that required reports and recommendations from the Athletic Council are forthcoming to the President, Provost and others;
- e. Report the concerns of the faculty relative to athletics to the President and the Director of Athletics;
- f. Interpret to the faculty, especially the Academic Council when so requested, Duke's athletic policies and activities.
- g. Other duties as assigned by the President, requested by ECAC, or discussed in Appendix B.

5. Terms of Athletic Council Members

The terms of members shall begin on July 1. The person appointed to fill a vacancy shall serve to the end of the original term. Student, dean and administrator terms are one year. Faculty terms are three years. Alumni terms are three years. Trustee terms are two years. Faculty, alumni, and trustee terms are staggered. The Chair and the Faculty Athletics Representative serve at the will of the President.

C. Responsibilities of the Faculty Athletics Representative

The Faculty Athletics Representative is chosen by the President from the faculty. This appointment is the sole prerogative of the President, who is not required by the Board Resolution, as he/she is when appointing the seven faculty members of the Athletic Council, to first receive nominations from the Executive Committee of the Academic Council. The President will, however, consult with the Executive Committee of the Academic Council and seek its non-binding advice in the selection of the Faculty Athletics Representative. The term is normally 3 years, renewable by the President. The Faculty Athletics Representative will:

1. Advise the President on all relevant matters;
2. Work with the Director of Athletics and the Chair of the Athletics Council in coordinating the functions of the Council and the duties and responsibilities of the Director of Athletics;
3. Serve as spokesperson to the faculty on behalf of the President on matters appropriate to his or her position and be available to provide information and answer any questions pertaining to Atlantic Coast Conference and National Collegiate Athletic Association membership.
4. Represent the President at the Atlantic Coast Conference and at the National Collegiate Athletic Association as directed by the President, and designated by these organizations;
5. Elicit information and advice from the Athletic Council and transmit it the President;
6. Monitor all athletic activities and confer regularly with the President on all matters which should come to his or her attention;
7. Report the concerns of the faculty relative to athletics to the President and the Director of Athletics;
8. Interpret to the faculty, especially the Academic Council when so requested, Duke's athletic policies and activities.
9. Perform the duties of the Faculty Athletic Representative as required by the ACC and NCAA, as well as those specified in Appendix B.

D. Responsibilities of the Director of Athletics

The Director of Athletics is responsible to the President, and reports directly to the President. He/She is responsible for the intercollegiate athletic program, the club sports program, and the Department of Health, Physical Education and Recreation program. The Director is responsible for the performance and activities of the various coaches, for fund raising for the athletic programs, for the maintenance and improvement of athletic

facilities, and for such other duties as assigned by the President. The responsibilities of the Director of Athletics include:

1. The Director of Athletics has primary responsibility for the integrity of the intercollegiate athletic program and the strict observance of all relevant University, Atlantic Coast Conference, and National Collegiate Athletic Association rules and regulations. The Director of Athletics shall report to the President any action which may reasonably be construed as constituting an infraction.
2. The Director of Athletics is not a member of the Athletic Council and is not responsible to the Athletic Council. The Director of Athletics does not report to the Athletic Council, but should be in regular communication with the Chair of the Athletic Council. The Director of Athletics is expected to attend regular and called meetings of the Athletic Council and meetings of committees of the Council upon request. It is the duty of the Director of Athletics, on behalf of the President, to seek advice from the Council on all appropriate matters and to inform the Council on all actions and anticipated actions relating to the athletic program to the extent that it is reasonable to do so.
3. The Director of Athletics is responsible for the budget of the Department of Athletics, but will report to the Athletic Council on the budget as he or she observes the requirement of the Board of Trustees that he or she review the athletic budget forecast with the Athletic Council and receive "the benefit of its advice concerning allocations of funds for different athletics purposes within the limits made available by the University."
4. The Director of Athletics is responsible for making recommendations to the President regarding the selection and retention of head coaches in the various sports, in accord with the procedures and responsibilities set out in Section IV, L.
5. The Director of Athletics will also observe the requirement of the Board of Trustees that the Athletic Council provide advice concerning athletic schedules and the award of letters earned by members of athletic teams.
6. The Director of Athletics will advise the Athletic Council concerning its responsibility to determine whether to accept invitations to post-season events, special holiday games, and other events outside the regular season schedule. The Director of Athletics, along with the Athletic Council, is responsible for advising the President on criteria to determine which sports will be eliminated or added for intercollegiate competition.

The Director of Athletics will be evaluated on the basis of his or her general management of the department; the integrity of the intercollegiate program; the academic success of intercollegiate teams; his or her ability to minimize the level of University subvention by raising endowment, generating external funding, or effecting internal economies; and his or her participation as a leader in the Duke community.

IV. ATHLETIC POLICIES AND PROCEDURES

A. Admissions

The responsibility for the admission of students who evidence an interest in intercollegiate athletics, whether recruited or not, has been delegated to the Provost. Individual decisions are entrusted to the Director of Undergraduate Admissions, who may exercise such authority personally or delegate it to one or more subordinates.

At present, the Director of Undergraduate Admissions directly exercises authority over the admission of students recruited to play men's and women's basketball and men's football and has delegated the responsibility to a subordinate for other sports.

Some admissions policies and procedures are the same for all sports. Some procedures are different for football and men's and women's basketball, and for exceptional cases, such as when a student recruited for a non-revenue sport is required to respond to a verified scholarship offer deadline imposed by another institution.

1. Admissions Office Policies for Scholarship Athletes Applicable to all Sports
 - a. No student athlete shall be admitted to Duke unless he or she is able and willing to do the academic work required for graduation. The decision to admit will be based on the professional opinion of the Director of Undergraduate Admissions or his or her designee.
 - b. No coach shall appeal an admissions decision once it has been finalized in the Office of Admissions.
 - c. Contacts concerning admissions with the Office of Admissions should be made only by the head coach or one designated assistant.
 - d. The Office of Admissions will provide admissions materials for distribution to recruited athletes upon request.
 - e. No applicant will be considered who does not meet the admissions requirements of the ACC and NCAA.
 - f. No applicant will be offered assurance of admission prior to consideration by the Office of Admissions. Coaches must be explicit in communicating with recruited students and their parents that the only valid offer of admissions is the admission letter from the Director of Admissions.
 - g. Appointments for interviews for prospective scholarship athletes will be made by coaches at least one week in advance. Interviews will normally be held within office hours.
 - h. The credentials of a prospect must be tentatively approved by the

Office of Admissions before a prospective student athlete makes a visit for which Duke is paying, unless such approval is waived by the Director of Athletics.

- i. Interviews of recruited athletes may be required at the discretion of the Admissions Office.
 - j. As with other applicants, additional writing samples may be required from prospects with questionable writing ability.
 - k. Coaches have the responsibility to inform the Office of Admissions of the identity of applicants tentatively accepted for admission to whom athletic grants-in-aid may be offered. The Office of Admissions will normally write the applicant that he or she has been admitted within three days of receiving notification, with a copy to the coach.
 - l. The letter of admission will inform the applicant if attendance at any special summer academic program is required or recommended.
 - m. The coach will send notice of the signing of an athlete to a grant-in-aid to the Office of Admissions immediately.
 - n. Final secondary school transcripts will be solicited by the Office of Admissions in early summer.
2. Additional Practices Governing Men's Football, Basketball, Women's Basketball, and Exceptional Cases.
- a. Before any applicant is presented to the Director of Admissions, his or her credentials will include a personal information form; an official transcript, including work done in the last term; SAT or ACT scores; and secondary school report or letters from the counselor.
 - b. The Director of Admissions may act tentatively on the file without the letters of recommendation or writing sample normally required. If the Director of Admissions admits the student tentatively, the student has the obligation of completing his file before the final commitment of the University to admission is made. The coach will inform the Director of Admissions immediately when a prospect signs a grant-in-aid.
 - c. Admission will be governed by the criteria of whether the applicant can and will do acceptable work at Duke.
 - d. Coaches shall not submit the names of applicants unless they believe that the applicants can do acceptable work at Duke.

- e. If requested by the Director of Admissions, coaches will rank applicants in order of preference.

3. Additional Practices Governing All Other Sports

- a. Before any applicant is presented to the Director of Admissions, his or her application should be complete, including recommendations and a writing sample.
- b. The normal admissions criteria shall be applied to applicants desiring to participate in intercollegiate athletics, except that a limited number of students may be admitted in each sport as "discretionary admits." Such students must, in the opinion of the Director of Admissions or his or her designee, be willing and able to do the academic work required for graduation and contribute appropriately to the Duke community.
- c. The number of "discretionary admits" in each sport shall be determined by agreement between the Director of Athletics and the Director of Admissions with the consultation of the Academic Subcommittee of the Athletic Council. If an applicant designated as a "discretionary admit" by a coach is denied admission, or declines admission, the coach may nominate an alternate. If a student admitted as a "discretionary admit" withdraws from the University while in good standing, an additional "discretionary admit" will be allocated to that sport in the ensuing year. If a student admitted as a "discretionary admit" fails out of Duke or withdraws when not in good standing, the slot is forfeited until the year in which he or she would normally have graduated.

4. Admissions Role of Athletic Council:

The Board Resolution creating the Athletic Council provides for an Academic Committee which "shall have the responsibility of enforcing and monitoring, but not administering, scholarship, athletic admissions, and grants-in-aid requirements of the University for participation in intercollegiate sports, under such policies as shall be established by the Provost."

This committee of the Athletic Council is not responsible for the admission of athletes, and should not intervene in the process. It shall conduct an annual comprehensive analysis of the admissions profiles and graduation rates for student-athletes and recommend to the President and Provost any appropriate changes in policies and practices. All responsibility for enforcement of requirements shall be carried out through the President and Provost.

The following procedures are established to facilitate the review by the Academic Committee of the Athletic Council:

- a. The Admissions Office upon request of the Academic Committee

will establish duplicate files for all football and basketball players or any other athletes admitted without having completed a full application that was read and evaluated in the normal admissions process.

- b. At the end of the basketball and football recruiting seasons and again at the end of the year, the Admissions Office will provide to the Academic Committee of the Athletic Council a report on the credentials of athletes in those sports to whom scholarships have been offered.
- c. At least once each year, the Registrar's Office will provide the Academic Committee of the Athletic Council information on the academic performance of all scholarship athletes. Those reports will include SAT, high school GPA, and Duke courses and grades.
- d. This information is confidential.

B. Academic Progress

High academic standards are expected of all students engaged in intercollegiate sports at Duke University. Athletes are required to be students first and they are admitted according to this criterion. Student athletes representing Duke are required to progress satisfactorily toward a degree, and their attrition rates as student athletes should not differ significantly from those of non-athletes.

A team is excellent at Duke not only when it competes successfully, but also when it is composed of students who will graduate and who in other respects embody qualities with which the institution can identify. Athletic success and academic integrity are the crucial elements of athletic excellence at Duke University.

Eligibility is an academic matter to be determined by the Dean of Trinity College or the Dean of the School of Engineering. Continuing eligibility for athletic competition is based on NCAA regulations. The University Registrar is responsible for certifying continuing eligibility for athletic competition.

C. Eligibility for Grants-in-Aid

1. Initial Awards

Grants-in-aid are made by the Director of Undergraduate Financial Aid on the recommendations of the coaches. The Director of Athletics has the primary responsibility for compliance with all relevant rules and regulations, as outlined in the Duke University Bulletin, the NCAA Manual, and the Atlantic Coast Conference Handbook. University eligibility requirements are far more demanding and restrictive than either the NCAA or ACC regulations. As a result, University requirements prevail. Each grant-in-aid is awarded on the following conditions:

- a That the student conducts himself or herself in a manner that is

consistent with the norms of good sportsmanship, the Duke Community Standard, and the Undergraduate Judicial Code;

- b That he or she fulfill all the normal academic requirements expected of Duke students each semester;
- c That he or she abides by such rules and regulations as shall be set for his or her sport at Duke University, including participation in supervised team meetings, conditioning, training, practice and intercollegiate competition. A student who voluntarily leaves a team shall lose the scholarship attached to playing for that team.
- d That he or she abides by all regulations contained in the Duke University Athletic Department Drug Policy (see section IV D) and the Code of Ethical Conduct (section IV N).

2. Renewal

A grant-in-aid is normally renewed for student-athletes with remaining eligibility and who have not graduated. In cases in which a coach contemplates recommendation of non-renewal of a grant-in-aid for reasons other than the student-athlete graduating or exhausting eligibility, he or she must provide a clear, unambiguous warning to the student-athlete in writing that non-renewal is being contemplated, indicating the specific reasons for the action. The written warning must be provided in advance of the decision to not renew aid, so that there is sufficient opportunity for the student athlete to meet the expectations of the Coach and the Department of Athletics as expressed in the written warning. Copies of the written warning must be submitted to the Senior Associate Athletics Director and the Director of Athletics.

When a decision is ultimately made by the coach and Director of Athletics not to renew a scholarship for reasons other than the student-athlete graduating, exhausting eligibility or transferring, the Department of Athletics shall prepare a statement of particulars in writing, outlining in detail the reasons for non-renewal. This statement shall be provided to the student-athlete at the time he or she receives formal notice of non-renewal, on or before July 1 prior to the commencement of the period of the award. A copy of that letter shall also be sent to the Faculty Athletics Representative.

Decreases in grant-in-aid require prior consultation with the Senior Associate Athletics Director. Coaches recommending a decrease in aid prior to the period of the award must submit a letter to Compliance, with a copy to the current senior administrator for Academic Services, detailing the reasons and term of the decrease (e.g., one semester, one academic year). Formal notice of decrease will be provided on or before July 1st prior to commencement of the period of the award.

Athletics grant-in-aid may not be reduced or canceled during the period of the award for any athletic reason. However, aid may be reduced or canceled during the period of the award if the student-athlete renders himself/herself ineligible

for intercollegiate competition, fraudulently misrepresents any information on an application, letter of intent or financial aid agreement, engages in serious misconduct warranting substantial disciplinary penalty, or voluntarily withdraws from a sport at any time for personal reasons. Formal notice of reduction or cancellation during the period of the award will be provided within two weeks of the reduction or cancellation.

Athletic grant-in-aid may be increased for any reason prior to the commencement of the period of the award. Coaches recommending an increase in aid must submit a letter to Compliance, with a copy to the current senior administrator for Academic Services, detailing the term of the increase (e.g. one semester, one academic year). If the increase is temporary (i.e. after the specified term, the aid will be renewed at the original amount), the coach must obtain a letter signed by the student-athlete and his/her parent or legal guardian in which they confirm that they understand the terms of the award.

Once the period of the award begins, aid may only be increased if it can be demonstrated that the increase is unrelated in any manner to an athletics reason.

Coaches recommending an increase in aid during the period of the award must submit a letter to Compliance, with a copy to the current senior administrator for Academic Services, detailing the reasons and term of the increase (e.g. one semester, one academic year). If the increase is temporary (i.e. after the specified term, the aid will be renewed at the original amount), the coach must obtain a letter signed by the student-athlete and his/her parent or legal guardian in which they confirm that they understand the terms of the award.

3. Appeals Process

Decisions to not renew, or to decrease, reduce or cancel a grant-in-aid may be appealed. The student shall send a letter appealing the decision to the Faculty Athletics Representative within two weeks of receiving the notification of non-renewal. The Faculty Athletics Representative will convene an Appeals Committee, which shall be composed of the Vice Provost for Academic and Administrative Services, who shall chair the committee, the Director of Undergraduate Financial Aid, three faculty members or academic Deans on the Athletic Council, and two student members of the Council. The procedures for hearing such appeals will be determined by the Vice Provost for Academic and Administrative Services. The student shall be informed of these procedures by the Vice Provost for Academic and Administrative Services.

If the student-athlete elects to appeal the decision to not renew, or to decrease, reduce or cancel his or her grant-in-aid, the detailed statement of the Department of Athletics giving reasons for non-renewal or the formal notice of non-renewal, decrease, reduction or cancellation, will provide the basis for the Appeals Committee hearing and the response by the student-athlete before the Appeals Committee. Such a statement shall not, however, preclude the Appeals Committee from seeking additional clarification based on the statement of particulars or formal notices presented by the Department of Athletics and on the appellant's response to it. The Department of Athletics shall have the right to respond to any new issues raised by the appellant.

In considering any such appeals, the Committee deliberations will be governed by the understanding that: 1) the Department of Athletics is under no contractual obligation to renew athletic grants-in-aid from year to year; 2) notwithstanding point 1, it is the normal practice of Duke University to renew the athletic grants-in-aid of student athletes who comply with the conditions for initial awards set forth in IV, C, 1.

In reaching its decision, the concerns of the Appeals Committee will essentially be those of due process, both procedural and substantive. The committee will seek to determine:

- a. whether the procedures followed in the case were adequate. Specifically, were the demands of the coach or Department of Athletics sufficiently clear and well communicated that the student athlete should have been expected to understand them and to appreciate the significance of a failure to comply with them?
- b. whether these demands were in substance reasonable or arbitrary and capricious. Specifically, were the demands reasonably related to the requisites of successful team performance or proper team conduct?

If, in the judgment of the Committee, these requirements of due process have been met, the decision of the Department of Athletics should be affirmed. If, in the judgment of the Committee, these standards of due process were not met, the Committee can mandate a renewal of the grant-in-aid under such conditions and for such a time period as it deems appropriate under the circumstances.

D. Student-Athlete Drug Policy

The intent of these policies is to prevent the use of prohibited substances by student-athletes through education, testing, and professional guidance. Systematic drug testing is appropriate and necessary to ensure the health, safety and welfare of our student-athletes, to promote fair competition in intercollegiate athletics, to affirm compliance with applicable rules and regulations governing drug use, and to identify student-athletes who are improperly using drugs and assist them before they harm themselves or others.

1. Prohibited use of banned substances.

All student-athletes enrolled at the University are prohibited from using any substance belonging to any of the classes of banned substances published by the NCAA, and updated from time to time. The classes of banned substances include: stimulants, anabolic steroids, diuretics (masking agents), street drugs (*e.g.*, heroin, marijuana), and peptide hormones and analogues (*e.g.*, human growth hormones and erythropoietin (EPO)). The University may test for any substance contained on the NCAA's list of banned substances, including unlisted compounds that are related to specific drugs listed by the NCAA (*i.e.*, substances that are included in a class of drugs by their pharmacological action and/or chemical structure). The student is responsible for everything that goes into his or

her body; students use all drugs and nutritional or dietary supplements at their own risk. Before taking any drug or supplement, students should consult with their team trainer or physician.

2. Unannounced drug-testing.

All student-athletes identified on the NCAA official squad list and all intercollegiate teams will be subject to unannounced drug testing. All student-athletes will be required to execute a waiver consenting to such testing. Testing may occur on- or off-campus at any time, including the preseason, during the regular academic year, and during the summer.

3. The consequences of a positive test for street drugs and other classes of banned substances, other than anabolic steroids, peptide hormones and analogues, and diuretics.
- a. A *first positive* test for a street drug or other banned substance other than an anabolic steroid, a peptide hormone or analogue, or a diuretic, will be treated as a matter calling for evaluation, treatment, and counseling. The student's parents, Head Coach, and the Athletics Director will be notified immediately. The student will be subject to unannounced drug testing as part of his or her treatment. As part of a treatment plan, the student may be suspended from competition. A positive test which indicates that the student has used a banned substance during the period of evaluation, treatment, and counseling shall be treated as a *second positive* test, if it is a street drug or other banned substance, other than an anabolic steroid, a peptide hormone or analogue, or a diuretic. If the positive test is for an anabolic steroid, a peptide hormone or analogue, or a diuretic, it will be treated in accordance with the provision of this policy dealing with a positive test for those substances. The student will be required to perform a minimum of 20 hours of weekend community service and meet with a trained drug/alcohol professional, and will be encouraged to notify his or her teammates of the positive drug test.
 - b. A *second positive* test for a street drug or other banned substance, other than an anabolic steroid, a peptide hormone or analogue, or a diuretic, will result in a suspension of eligibility to compete in all intercollegiate competition for a minimum of 50% of the total regular season's contests, to be carried over into the next regular season, if necessary. The student's parents, Head Coach, and the Athletics Director will be notified immediately. The student will be required to perform a minimum of 40 hours of weekend community service and meet with a trained drug/alcohol professional, and will be encouraged to notify his or her teammates of the positive drug test.
 - c. A *third positive* test for a street drug or other banned substance, other than anabolic steroid, a peptide hormone or analogue, or a

diuretic, will result in the permanent termination of eligibility to compete in all intercollegiate competition at Duke University and the loss of athletic financial aid. The student's parents, Head Coach, and the Athletics Director will be notified immediately.

4. The consequences of a positive test for anabolic steroids, peptide hormones and analogues, and diuretics.

The use of anabolic steroids and peptide hormones and analogues is cheating and undermines the integrity of any athletic competition in which the offending student participates.

- a. A *first positive* test for an anabolic steroid, a peptide hormone or analogue, or a diuretic will result in a suspension of eligibility to compete in all intercollegiate competition for one calendar year. The student's parents, Head Coach, and the Athletics Director will be notified immediately.
 - b. A *second positive* for an anabolic steroid, peptide hormone or analogue, or a diuretic will result in a permanent termination of eligibility to compete in all intercollegiate competition at Duke University and the loss of athletic financial aid. The student's parents, Head Coach, and the Athletics Director will be notified immediately.
5. Additional sanctions.

In addition to the foregoing sanctions, the Athletics Director or Head Coach may treat a violation of this drug policy as student-athlete misconduct and impose appropriate additional sanctions, including the loss of athletic eligibility and athletic financial aid.

6. Labeling of urine samples.

All urine samples shall be divided into two parts, Sample A and Sample B. If the student's A sample tests positive for a banned substance, it will be deemed conclusive proof that the student violated this policy, unless the student requests an appeal from the positive test, in the manner required by this policy.

7. Self-reporting.

A student may self-report his or her use of a banned substance, except where it is done to evade an unannounced drug test. When a student self-reports the use of a banned substance, he or she will be tested immediately and will be treated as having tested positive for the banned substance actually used.

8. Consequences of failing to participate in or cooperate with the drug-testing program.

All student-athletes are required to comply fully with the drug-testing program

created by this policy.

- a. A failure to execute the drug testing consent form, an un-excused absence from a drug test, or a refusal to provide a sample or the tampering with or manipulation of a sample will be treated as *a positive test for an anabolic steroid*.
 - b. A failure to provide an adequate sample within a reasonable period of time may result in a suspension of eligibility until the student provides an appropriate sample under circumstances set by the University. If, based upon the written report of the sample collector, the failure to provide a urine sample occurs under circumstances that amount to a refusal to provide the sample, the failure will be treated as *a positive test for an anabolic steroid*. All urine samples actually provided by a student may be tested.
9. Appeal from a positive test.
 - a. Any student who tests positive for the use of a banned substance may appeal to a drug-testing appeal board. The request for an appeal must be made in writing within 5 days of the written notice to the student that his A sample tested positive for a banned substance. If the student requests an appeal, his or her B sample will be tested to confirm the presence of a banned substance. In case of an appeal, the Athletics Director, in consultation with the Faculty Athletics Representative, will appoint a 3-member panel to hear the appeal. The members of the board may include an athletic department administrator, a head trainer or team physician, a faculty member from the Athletic Council, and other members from outside the Athletic Department. The chair of the board shall be a person from outside the Athletic Department. No person associated with the student's team shall be appointed to the board.
 - b. The student may appeal on any ground, including on the ground that he or she had "no fault" for the doping violation (i.e., that he or she did not know and could not reasonably have discovered or suspected that he or she was administered or took a banned substance) or that he or she had "no significant fault" (the student's fault or negligence in the totality of the circumstances was not significant in relationship to the doping violation). In the case of no fault, the student will be absolved of the violation; in the case of no significant fault, the board may reduce any suspension by up to 50% of what it otherwise would have been, except in the case of a first positive test for a street drug or other class of banned substances, other than anabolic steroids, and peptide hormones and analogues. *However, it shall not be a basis for appeal solely that the student unwittingly used a product that contained a banned substance.*
 - c. On appeal, the student will have the burden of establishing his or

her defense by clear and convincing evidence.

- d. The sanctions authorized by this policy shall not be imposed (a) until the hearing board has decided any appeal by the student; (b) the student has withdrawn the appeal in writing; or (c) the time for the student to appeal has expired.

10. Confidentiality.

- a. Except as required by law, the University will treat confidentially all information relating to a student's alleged or confirmed use of a prohibited substance, aside from such disclosures to University personnel, parents, guardians, coaches, and others that are required to be made under this policy or under applicable state or federal law.
- b. Employees of the University who breach this policy of confidentiality or who disclose information about unannounced random drug testing, such as the dates of such testing and the students or teams subject to testing on a particular date will be treated in the same manner as employees who breach the confidentiality of patients' medical records.

11 Oversight Committee.

- a. The President will appoint a committee to oversee the program established by this policy. The members of the committee shall include an Athletic Department administrator, a member of the faculty, a representative from Student Affairs, and a trainer or team physician.
- b. The oversight committee will be responsible for determining the appropriate drug screening test to use, the frequency of tests, and the selection process for unannounced testing. The Committee also will be responsible for evaluating the adequacy of all drug educational programs established for student-athletes. Finally, the Committee will be responsible for making an annual report to the President and Athletics Director concerning implementation of this policy. The report shall include any recommendations for modification of the policy, drug educational programs, or sanctions for violating the policy.

E. Student-Athlete Grievance Policy

From time to time, a student-athlete may feel that he or she is being mistreated or treated unfairly by his or her coach. In addition to standing University Committees available to all students, the University has established a grievance procedure to provide the student-athlete with an avenue to express his or her concerns. This process is not intended to interfere in issues of playing time, position, or other matters impinging upon the coach's expertise in the sport. It is intended to provide recourse for student-athletes

who feel that they are subject to serious mistreatment. This procedure will consist of up to three steps.

1. The student may meet with the coach in order to communicate his or her concerns.
2. If the student feels that the meeting with the coach is unsatisfactory, he or she may request a meeting with the coach, and up to two Assistant/Associate Athletic Directors. The Director of Athletics will be advised of the outcome of this meeting and consulted concerning any resolution that has been suggested or agreed upon.
3. If the second meeting does not resolve the issue, the student may then apply to the Faculty Athletics Representative for a hearing. If the Faculty representative concludes that further discussion of the student's grievance is warranted, he or she will then convene a panel consisting of members of the Athletic Council. This panel will then reach a final determination concerning the resolution of the dispute.

Appeals regarding decisions not to renew a scholarship are governed by Sections IV C 3.

F. Club Sports Policy

Sports Clubs are defined as groups of individuals that share common interests to compete against other clubs or organizations with similar interests. A maximum of six clubs may be designated as Sports Club II status. Criteria for this designation are in the Duke Sports Club Council Handbook. The individual purpose of a club may vary from strictly competitive to recreational depending upon the individuals and club. Existing clubs compete in some manner with other clubs or organizations. Sports clubs are student-initiated and student-run. Volunteer coaches receive no compensation; coaches for Sport Club II sports may receive compensation.

A clearly designated person should be responsible for administrative supervision of each club sport and should report to the Director of Athletics or his/her designee. The administrative supervisor should be responsible for approving leaders and instructors in club sports. Where possible a member of the Duke student body, faculty or staff should be selected as an advisor to the students in each club. Special care should be given to the selection of instructors and leaders, in order that persons with appropriate skills and experience are chosen. This is particularly important when the persons are employees or faculty of the University.

The administrative supervisor should make regular checks on the operation of club activities, especially those that present danger of serious injury. He/She should prepare an annual report which includes evaluation of instructors and leaders involved and an account of the injuries incurred. A definite timetable should be set for evaluation in this regard for all sports clubs. If, at any time, the administrative supervisor concludes that an activity fails to meet the standards suggested, because of excessive injuries, because instructors and leaders adequately skilled in injury prevention are unavailable, or for similar reasons, then the supervisor should recommend withdrawal of University

sponsorship of the activity. Decision on such a withdrawal would be made by the Director of Athletics, after considering the cases presented by the supervisor and by students participating in the activity. Appropriate equipment properly fitted and continuously inspected should be utilized.

The Office of the University Counsel should be directed to review and rewrite the waiver agreements for all club sports to release explicitly the University from liability for its own negligence in the context of club sports programs, as well as to assure that the waiver form meets the requirements in any state in which the activity is expected to take place. All participants in club sports must certify that they have purchased either the Duke Student Accident and Sickness insurance policy, or an equivalent health insurance policy. Participants in skydiving and club football must further certify that they are covered under a major medical insurance policy, which does not exclude injury resulting from aerial navigation or organized tackle football, with minimum lifetime benefit limits of \$250,000.

It is understood that student members are the primary moving force in club sports and they should be primarily responsible for selection of the instructors, coaches and advisors, subject to approval by the administrative supervisor. The policy does not intend that an administrative supervisor replace student leadership.

Club Sports, including Sport Club II sports, shall be administered in accordance with the most recent edition of the Duke Sports Club Council Handbook and the interpretation thereof of the Director of Sports Clubs, Intramurals and Recreation to the extent not inconsistent with these policies.

G. Post-Season Play

The Athletic Council is charged with acceptance of post-season invitations, after receiving the advice of the Director of Athletics. No invitation will be accepted unless the team members concerned wish to accept the invitation. Normally, such invitations should be accepted if

1. there is not undue interference with academic programs,
2. the event is such that participation would not bring embarrassment or discredit to the University, and
3. the financial requirements will not be a burden on the University.

H. Competition During the Examination Period

Normally, competitive games will not be permitted during the time of examinations schedules. The Athletic Council, in its discretion, may make exceptions if the importance of the event and alternative provisions for examinations justify such action.

Normally teams will be given permission to compete in NCAA championship tournaments during exam periods. The Chair of the Council and the Faculty Athletics Representative should be notified of such competition as soon as the invitation has been extended, and the Department of Athletics shall provide a list of all student-athletes with specific conflicts to the Provost's office. It is the responsibility of each student-athlete to arrange for alternatives to scheduled exams. If necessary, the Provost's office will provide permission to the Deans for students to be excused from normally scheduled exams due to athletic competition.

I. Out-of-Season Competition

If a coach, through the Director of Athletics, requests permission from the Athletic Council to enter competition outside the regular season schedule, the Council has authority to grant such a request after receiving the advice of the Director of Athletics and the endorsement of the team, and if there is benefit for the team and the University, no undue disadvantage to the team members' academic programs, and no undue financial burden on the University.

J. Criteria for Intercollegiate Sports

Following the stated policy of the Board of Trustees, the Athletic Council has the responsibility for making recommendations on those sports which constitute the Duke University intercollegiate athletic program. In making its determinations, the Council is also bound by regulations laid down by the Atlantic Coast Conference and the NCAA. ACC rules stipulate that all member institutions must compete in football, men's and women's basketball, and either women's soccer or women's volleyball (see section IV-2 of the ACC Constitution). NCAA Division I membership requires a minimum of seven male/mixed and seven female sports or six male/mixed and eight female sports (see NCAA Handbook, section 20.8.3). Duke University currently supports twenty-six intercollegiate sports teams, thirteen for men (basketball, soccer, tennis, golf, swimming, fencing, cross country, indoor track, outdoor track, football, baseball, wrestling, and lacrosse) and thirteen for women (basketball, soccer, tennis, golf, swimming, fencing, cross country, indoor track, outdoor track, volleyball, field hockey, rowing, and lacrosse).

Intercollegiate sports presently authorized or to be authorized should meet the following requirements:

1. The sport should elicit a following and interest that will produce positive attitudes and general support from both the student body and alumni and friends of the University.
2. The sport should reflect not only long-standing Duke athletic traditions but also the unique character of Duke University and the special talents of

its students.

3. The sport should provide opportunity for wide participation and/or for the recognition of exceptional individual achievement.
4. The sport should provide collateral institutional benefits for Duke University.
5. The sport must fall within the financial capabilities of Duke University to fund appropriately within those financial parameters set by the Board of Trustees.
6. The sport should have the capability of having a schedule developed that is both convenient and competitive.

No new intercollegiate sport will be authorized except upon the elimination of an existing sport or by permission of the Board of Trustees. Any new sport added normally should provide the opportunity for intercollegiate competition with four or more ACC institutions, thus allowing the chance to compete for a conference championship. Furthermore, the Board Policy generally provides that Duke's goal in Athletics is "excellence, meaning credible academic performance of participants, dedication to sportsmanship and fair play, the development of individual and team skills, the exertion of best effort, the will to win, and general conduct that brings credit to the University" and that there will be "a competitive performance in each team sport and/or the opportunity realistically to compete for team or individual championships."

The Athletic Council will make a periodic review of the intercollegiate athletic program to insure adherence to these guidelines and will review petitions of eligibility of other sports requesting elevation to intercollegiate status.

K. Financial Policy and Procedure

Beginning in FY 98/99, the authorized level of University support to the Department of Athletics will be predicated on 146 full grants-in-aid. A full grant-in-aid shall be defined as follows:

1. Tuition - Trinity College Undergraduate Tuition
2. Room - Air Conditioned, West Campus Double
3. Board - Highest Meal Plan Offered (Plan E)
4. DSG Fee
5. Student Health Fee
6. Books and Supplies Allowance
7. Miscellaneous Other Required Fees

It is recognized that these costs will change; the intent is to define clearly the items upon which the value of grants-in-aid will be determined.

Grants beyond the 146 level, but not to exceed 235, are authorized when earnings from endowment funds dedicated to the Department of Athletics are available to support and maintain these additional grants-in-aid. Allocations of grants among the various sports will be determined by the Director of Athletics.

Beginning in FY 98/99 and beyond, the Department of Athletics will retain any favorable performance to their approved subsidy level as follows:

An amount of \$200,000 is to be retained by the Department of Athletics for the creation of a quasi-endowment for women's scholarships and the next \$300,000 will flow to the Department of Athletics for either women's scholarships or facility enhancements. Any favorable performance to the approved annual subsidy level in excess of \$500,000 will be returned to the University for distribution by the President. In determining the favorable performance to the approved subsidy level, gifts specified by the donor to be used for endowment or physical plant will be excluded from the sharing agreement.

If the Department of Athletics experiences unfavorable performance to its subsidy level, withdrawals from available reserve funds would be required to cover the unfavorable performance.

This approach provides the Trustees and all other parties with a clear understanding of the amount of subvention required from the University for the Department of Athletics. This approach also eliminates disincentives to raise new endowment funds for athletic scholarships. Finally, this approach establishes a ceiling for the number of full scholarships funded from University resources.

L. Selection and Retention of Coaches

Coaches in the various sports are appointed by the Director of Athletics in consultation with the President of the University. In the case of football and men's and women's basketball, the President will make the appointment on the recommendation of the Director of Athletics.

The Director of Athletics will be assisted in the selection of head coaches by administrators, faculty members, and other members of the Duke community who have useful expertise. The Director of Athletics may appoint a search committee at his or her discretion, with the provision that at least one member of the committee shall be a member of the faculty. In cases in which a formal search committee is not used, at least one faculty member, generally either the Chair of the Athletic Council or the Faculty Athletics Representative, will be directly involved in advising the Director of Athletics. In the case of football and men's and women's basketball, representatives of the Athletic Council shall be consulted before final appointment.

Head coaches will be reviewed by the Director of Athletics on a continuing basis. The Director of Athletics will then review his or her conclusions and recommendations with the President. The Director of Athletics may call on the Athletic Council for advice and will keep the Council informed.

Assistant coaches are appointed by the Director of Athletics upon the recommendation of the head coach in the sport in questions. Assistant coaches serve at the pleasure of their head coach and the Director of Athletics.

Coaches are expected to represent the University with dignity and integrity, and are personally responsible for the scrupulous observance of all University, ACC, and NCAA regulations and standards.

M. Selection and Review of the Director of Athletics

The Director of Athletics is selected by the President and is elected by the Board of Trustees. The President shall consult with members of the Athletic Council before making an appointment.

The President will review annually the performance of the Director of Athletics, and may seek the advice of the Athletic Council and others in conjunction with his review. The President may establish an external review committee if he or she so desires. The President will discuss with the Director the conclusions of all reviews.

N. Code of Ethical Conduct

The Department of Athletics code of ethics is summarized in the annual contracts of coaches. The coaches indicate their awareness of these principles by acceptance of the contractual terms. The actual wording states that ". . . the University may terminate the employment for cause at anytime in the event of your gross neglect of duties, willful violation of University rules and regulations, conduct calculated to bring the University into disrepute or willful violation of rules or regulations of the NCAA or the Atlantic Coast Conference." In addition to the above, the specifics of the principles of ethical conduct required by the NCAA are outlined in Section 6 of the NCAA Manual. These principles are as follows:

"Principles of Ethical Conduct. It shall be a member institution's responsibility to apply and enforce the following principles:

1. Individuals employed by, or associated with, a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall deport themselves with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.
2. Conduct by a student-athlete or an institutional staff member that may be considered unethical includes, but is not limited to:
 - a. Refusal to furnish information relevant to investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;

- b Knowing involvement in arrangements for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
 - c Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit;
 - d Knowingly furnishing the NCAA or the individual's institution false or misleading information concerning the individual's involvement in or knowledge of a violation of an NCAA regulation.
- 3 Student-athletes found in violation of the provisions of this regulation shall be ineligible for further intercollegiate competition, subject to appeal to the NCAA Eligibility Committee for restoration of eligibility. Institutional staff members found in violation of the provisions of this regulation shall be subject to disciplinary or corrective action as set forth in the NCAA enforcement procedure.
4. Staff members of a member institution's athletic department shall not accept compensation or gratuities of any kind whatsoever, either directly or indirectly, for representing a professional sports organization in the scouting or contacting of athletic talent or the negotiating of a contract. Any compensational arrangement between a professional sports organization and a college staff member (e.g., for scouting other professional teams or assisting the professional employer in coaching its team) shall be prima facie evidence of an indirect arrangement to assure the staff member's assistance in evaluating or procuring college talent.
5. Staff members of member institutions and others serving on the Association's committee or acting as consultants shall not, directly or by implication, use the Association's name or their affiliation with the Association in the endorsement of products or services.
6. Staff members of the athletic department of a member institution shall not knowingly participate, directly or indirectly, in the management, coaching, officiating, supervision, promotion or player selection of any all-star contest involving student-athletes which is not certified by the Association's Extra Events Committee.
7. Staff members of the athletic department of a member institution shall not represent, directly or indirectly, a student-athlete in the marketing of athletic ability **or** reputation to a professional sports team **or** professional sports organization and shall not receive compensation or gratuities of any kind, directly or indirectly, for such services.
8. Contractual agreements between a coach and an institution shall include the stipulation that the coach may be suspended for a period of time, without pay, or that the coach's employment may be terminated if the coach is found to be involved in deliberate and serious violations of NCAA regulations."

It is the responsibility of the Director of Athletics to make certain that coaches are aware of the University's insistence upon their adherence to these guidelines.

O. External Representation of the University

The Faculty Athletics Representative represents the University in the Atlantic Coast Conference (ACC) and serves in all duties assigned to that representative by the ACC and the NCAA. The Faculty Athletics Representative, the Director of Athletics, and others specifically designated by the President represent the University at meetings of the National Collegiate Athletic Association (NCAA). The President exercises ultimate responsibility for University positions advanced before the ACC and the NCAA.

P. Funds

All funds arising from intercollegiate athletics shall continue to be handled entirely by the Treasurer of the University.

Q. Policy Governing Post-Eighth Semester Participation in Intercollegiate Athletics

1 Policy

Student athletes may participate in intercollegiate competition after eight semesters at Duke, providing that several conditions are met:

- a. the student-athlete must have eligibility remaining in accordance with NCAA regulations,
- b. the student-athlete must be in good academic standing and be making satisfactory progress toward a degree, as defined by University regulations applicable to all students,
- c. the student-athlete must request and receive approval to participate in a sport after his or her eighth semester from the team coach, from the Director of Athletics, and from the Academic Committee of the Athletic Council.
- d. the student-athlete must enroll in a minimum of two academic courses during his or her post-eighth semester.

2. Procedures

- a. No later than December 1 in his or her seventh semester, a student-athlete who desires to compete during a post-eighth semester must apply in for permission to do so. The application should be made to the team coach.
- b. If the coach endorses the request, he or she must indicate approval

in writing and forward the request to the Director of Athletics.

- c. The Director of Athletics, upon concurrence, must submit all such forwarded requests to the Chair of the Athletics council, who will consult with the Academic Committee of the Athletic Council for final approval.

3. **Rights and Responsibilities**

- a. The student-athlete has the right to request permission to participate in intercollegiate competition after the eighth semester, providing all specified conditions of such participation be met and to be final judge as to whether such participation is in his or her best interest. However, no student-athlete has a necessary right to participate in a sport or to remain on athletic scholarship beyond the eighth semester.
- b. The team coach has the responsibility of determining whether a student-athlete's participation in his or her sport beyond the eighth semester would be in the interest of the team. The team coach has the right to approve or disapprove the student-athlete's request in accord with this determination.
- c. The review powers of the Director of Athletics and the Academic Committee of the Athletic Council are principally intended to provide a basis for them to fulfill their responsibility to ensure that student-athletes participating in post-eighth semester competition do so voluntarily and that the academic progress and performance of student-athletes is enhanced or at least not negatively affected by extending their stay at Duke beyond the eighth semester.

R. Criteria for Varsity Awards

1. The following awards are authorized:

- a. First Award: Jacket
- b. Second/Third Award: Certificate
- c. Senior Award: Ring

2. Criteria for awards:

Varsity awards for each individual sport shall be awarded on the basis of criteria determined by the Head Coach of that sport. The criteria shall be reviewed and approved by the Director of Athletics, an Associate or Assistant Director of Athletics, or the Faculty Athletics Representative.

Athletics Policy Statement 2003

There is good in intercollegiate athletics, when properly conducted. They have made considerable contribution to American college life and deserve to be saved from the perils that threaten them and the evils that now actually beset them.

--William Preston Few, 1906

Introduction

The past 20 years have witnessed change at an unprecedented rate throughout intercollegiate athletics. The guidelines for athletics at Duke developed by President Terry Sanford and Athletics Director Tom Butters and written by President Sanford in 1984 were appropriate and even far-sighted at the time. Indeed, it is a testament to their vision that much of what Sanford and Butters prescribed is still valid today. But at the same time, enough has changed that it is now prudent to re-evaluate Sanford and Butters' philosophy and the departmental structures and policies that animated that philosophy.

This policy statement is based on a careful analysis and evaluation of the current structure of the Duke Department of Athletics. We have considered whether alternative structures might better serve the university's goals in sponsoring intercollegiate athletics and be better suited to the changing landscape of college sports. This document is the product of the study of an array of ways of realigning the department with an eye to their effect on cost, admissions, level of competition, the number and nature of participation opportunities for student-athletes, compliance with Title IX, and several other factors. We also weighed these alternatives in light of institutional limits and constraints as well as the appropriate role of a department of athletics in an educational setting.

Our conclusion after evaluating the various options is that the current structure best meets the needs of the university. What follows is a brief review of the recent past, an assessment of challenges we are likely to face in the next five years, and an explanation of our conclusion that our present course is the right one.

Overview

When President Sanford set out to define the ground rules for the Department of Athletics in 1984, the landscape of college sports was very different than it is today. So too was this department. In 1983-84, 194 Duke students received athletic financial aid. Twenty-two percent were women, who received 16% of the aid awarded that year. The cost of a full athletic scholarship was \$10,431. The total cost of DUAA financial aid was \$1,620,329.¹ The university sponsored 13 men's sports and eight women's sports. Yet to be added to the women's program were cross-country, indoor track, outdoor track, soccer, lacrosse, and rowing, while women's

¹In 2001-02, 308 students received athletic financial aid; 137 of them were women (44%). Women were awarded 43% of all athletic financial aid. The cost of a full scholarship was \$34,765.

gymnastics was still a varsity sport. The athletics staff that supported the efforts of these athletes was considerably smaller than it is today, as were the coaching staffs in the non-revenue sports.

Title IX was the law of the land, and had been since 1972. But under the Reagan administration, and particularly after the Supreme Court's ruling in *Grove City College vs. Bell* (2/28/84), it had little or no real impact on college athletics programs. It wasn't until the Civil Rights Restoration Act of 1987, which effectively overturned *Grove City*, that the constraints of compliance with Title IX again became an important factor in the deliberations of university administrators.

President Sanford could hardly have foreseen the alterations the next 15 years were to bring, the most dramatic example of which is the explosive growth of interest in the NCAA men's basketball tournament. College athletics has been suffused with money, has garnered increasing media attention (much of it fueled by the not coincidental growth of cable television in general and ESPN in particular), and been subjected to steadily intensifying pressure. That interest and the resultant pressure have changed the character of the whole enterprise in many ways, not all of them salutary. The response to these changes at Duke took the form of a series of discrete decisions which, viewed collectively, have altered the structure and operation of the department in significant ways. Although this is a different department than it was when Sanford was president, the differences are not the product of a conscious plan or design, but rather the outcome of the university's incremental adjustments to external and internal pressures (e.g., Title IX, escalating coaches' salaries, amendments to NCAA legislation.).

Why Athletics?

As the landscape of college athletics continues to change, the overriding question is whether the university will, as it has done so far, accommodate these and other changes. Is our commitment to Division I athletics such that we will go on accepting adjustments to our standards in order to field winning teams? At what point do we decide that Duke can no longer afford the costs of adapting to alterations in intercollegiate athletics without sacrificing something that is vital to the university's core values and mission?

With these cautionary questions in mind, any plan for athletics has to be recognized as unlikely to be as durable as Sanford and Butters' plan, defined almost 20 years ago. We might begin by recognizing that the university has been successful thus far in sponsoring an athletics program that has been nationally competitive without compromising the fundamental values and goals of the institution. Before evaluating how that program might be adjusted in the future, however, perhaps we need to revisit the oldest, most fundamental question of all: why athletics in a academic setting?

Regardless of the type of institution or the level of competition, the core values cited in the athletics mission statements of institutions as diverse as MIT and the University of Georgia are remarkably consistent.² Stripped of all but the bare essentials, they amount to three principles:

² Based on more than 30 athletics mission statements, including those of institutions from the Ivy League, the Big Ten, the Southeastern Conference, the Seven Sisters, the NESCAC, and independent schools.

1) An almost unanimous endorsement of the pursuit of excellence in all things, including athletics;

2) universal identification of athletics as an integral component of the educational mission of the institution and citation of the intrinsic value to the participant. This includes personal and social maturation, the education of the whole person, the development of a healthy lifestyle, and learning the value of the pursuit of goals in a collective context;

3) identification of athletics as one of the best ways to develop and foster a sense of community.

These universal benefits of athletics are conferred alike on the University of Michigan tailback playing in front of 105,000 spectators and the Brandeis fencer laboring in virtual isolation. Few would disagree that they are appropriate, and even worthy, goals. But at the same time, few would naively assert that they are the only goals of most Division I programs. Implicit in these goals are the efforts to win on the field, not merely to strive to win. And the unfettered pursuit of victory inevitably brings the department of athletics into collision with other institutional goals and priorities. The pursuit of athletic goals, then, cannot be advanced without consideration of the institutional limits and constraints within which we must operate.

Limits and Constraints

Duke student-athletes must always be legitimate students who are able to perform in the classroom to the maximum of their capabilities.

The University has identified a value in offering a wide range of intercollegiate teams.

The Athletics Department has been a valuable asset in advancing the diversity goals of the university.

The cost of maintaining nationally competitive programs will continue to increase indefinitely.

The weight of history and tradition as well as the sentiments of alumni are significant and not to be disregarded in re-evaluating the structure of the program.

The NCAA requires a Division I institution to sponsor a minimum of 14 sports: seven for each gender.

The ACC requires all member institutions to sponsor football, men's and women's basketball, and either women's volleyball or women's soccer.

Membership in the Atlantic Coast Conference is desirable. It confers recruiting and financial benefits that would be difficult to replace or re-establish if Duke were to leave the ACC. Perhaps more important, it has fostered rivalries that encourage institutional loyalty and pride and are important to students, staff, and alumni. Finally, the geographical proximity of ACC schools somewhat limits the expense-in both time and money of travel for competition.

Compliance with Title IX, in conjunction with NCAA and ACC requirements, imposes considerable constraints on our ability to reshape the department.

Internal constraints, such as limits on the number of athletic scholarships and athletic admissions spots, must also be taken into account.

Our facilities (locker rooms, weight rooms, practice and competition sites) are stretched to the limit by sponsoring 26 varsity teams.

We barely have adequate support personnel (trainers, strength and conditioning coaches, academic advisors) to provide services to almost 600 student-athletes.

Some of the elements that shaped the Sanford plan, such as spectator interest, do not exert significant influence on current deliberations. Very few of our teams generate significant spectator interest. Even the most successful (women's tennis, golf and lacrosse; men's lacrosse, tennis) rarely play before more than 100 spectators. The only exceptions among the non-revenue sports are men's and women's soccer. President Sanford's contentions notwithstanding, clearly this has never been as important a factor in departmental planning as other variables.

Planning for the Future

With these principles and constraints in mind, we can formulate a list of goals for the foreseeable future:

- To be nationally competitive annually in most fully funded scholarship sports
- To be competitive annually in the ACC in the partially funded sports and to be as consistently competitive as possible nationally
- To utilize non-scholarship, individual sports as a vehicle to maintain a broad-based program and to allow for personal growth and accomplishment
- To retain and enhance the comprehensive value of participation in the program
- To maintain high graduation rates
- To comply with Title IX
- To support a program of intramural and club sports that responds to the recreational and fitness needs and interests of the student body and staff³
- To continue to adhere to the highest standards of integrity in the conduct of all phases of the athletic program

Similarly, there are also directions in which we will never go, "a line in the sand", as it were, which we will not cross:

- Never compromise our commitment to the academic success and graduation of student-athletes
- Never violate the autonomy of the Director of Admissions in the athletics admissions process and never compromise the fundamental admissions standard: that all admitted

³ More than 1600 students participate in 38 club programs and more than 2000 students play at least one of 21 intramural sports offered. It is important to maintain these programs at their present level for those students whose abilities or interests preclude varsity status but who nonetheless want to enjoy the benefits of athletic participation.

- students must be capable of doing acceptable work and graduating from the university
- Never depart from principles of sound fiscal management

As our environment continues to change, we can no longer afford to respond to those changes in an *ad hoc* fashion. Insofar as possible, we need to anticipate and plan for change so that our responses are consistent with institutional and departmental policy and philosophy and in accord with the goals we have outlined. As we plan, it seems clear that the three most pressing issues we will have to confront in the foreseeable future are expenses, admissions, and compliance with Title IX.

The Cost

One of the inescapable considerations as we evaluate the direction that the department is to take is cost, of all kinds. While analysis of the cost of IA athletics has tended to focus on academic compromises, it is worth noting that the costs involve actual financial expenditures, as well. The rapidly developing sophistication in training and conditioning techniques, the perceived need for full-time assistant coaches, the increased public interest in women's athletics, and the consequent intensification of the recruiting wars for non-revenue sport prospects have conspired to raise the cost of running an intercollegiate program to a level that would have seemed incredible to President Sanford. In short, the arms race, once restricted to football and men's basketball, has now swept up the non-revenue sports.

At Duke, with its high tuition rate, scholarship costs alone are spiraling upward.⁴ In addition, heightened levels of competition in virtually all the sports we sponsor has translated to increased operating budgets across the board, the expense of maintenance and operations of our new facilities is not inconsiderable, and coaches' salaries in the revenue sports continue to rise.⁵

How can we plan to offset these increased and increasing--expenses? Over the past few years, the athletic development office staff has been augmented. A great deal of the staff's time and attention had been devoted to fund-raising for a number of large projects: Schwartz-Butters, Yoh, Sheffield, and endowment of scholarships. As these projects are completed, the development personnel will have more freedom to concentrate on raising money to offset and even endow operating costs. As our teams continue to succeed on the field, we anticipate that licensing will be a productive source of revenue. We need to ensure that we are exploiting this revenue source effectively and creatively. The single untapped resource that has the potential to generate significantly increased revenue is football. We are currently operating under a plan to rebuild the football program that, if it works, will return football to competitive stature within the ACC. The success of this plan (focused on improving recruiting, the retention of quality coaches, improvement of facilities, and adjusted admissions procedures) may provide some relief from our growing financial pressures. We also anticipate that our aggressive promotion of women's basketball, as well as the team's continued success, will produce more revenue, although realistically, it will be a long time before such revenues offset the costs of that program.

⁴The cost of a full scholarship in 2002-03 will be \$36,617. We anticipate awarding approximately 235 scholarships: \$8,604,995.

⁵We are already seeing the gravitational effect of elevated football and basketball coaches' salaries on non-revenue salaries at other institutions. We can expect the same effect at Duke, as well.

Careful stewardship of our resources in combination with aggressive and creative fund-raising and marketing will enable us to sustain the ambitious goals of each of our teams and of the program itself, as long as current sources of important funding, which are to a certain extent dependant upon economic factors over which we have little control, are not seriously limited by downturns in the economy.

Admissions

The issue of admissions is likely to be among the most vexing in the future, but this fact is hardly startling, nor is it a new phenomenon. The current system of athletic admissions spots was developed by Clark Cahow during his tenure as Interim Director of Admissions following the abrupt resignation of Jean Scott in 1985. Underlying any such system has always been the recognition that concessions need to be made in athletics admissions in order to field competitive teams. While this has long been true for football and men's basketball, it is only relatively recently that such concessions have been extended in any systematic way to non-revenue men's sports and to women's sports.

As recently as the late 1980's, this was, in fact, still a matter of some debate. During Dick Steele's term as Director, the offices of the Provost, the Athletics Director, the Director of Admissions, and the President engaged in a somewhat spirited exchange over what then-Vice Provost Paula Burger, in a memo to President Brodie, referred to as the ambiguity of the [admissions] status of non-revenue athletes. President Brodie's reply was unambiguous:

There are a number of very important reasons for the nurturance of our non-revenue athletic programs. In order to maintain these programs we are bound under the athletic policy of the University to excel. That is to say, we are not interested in fielding teams just for the sake of fielding teams. We are fielding teams in order to win and to bring credit to the University in the process. In order to do that we need the use of scholarship funds which are available to the Athletic Department and we need competent student-athletes.

Specifically in regard to women, he said:

A strong program for women athletes will help attract women, not just women athletes. In order to build strong teams we will probably need to admit some women who will more approximate the admission standards for revenue than non-revenue athletes. This is important if we are to meet our Title IX obligations.

He concluded by asserting that "we need to rely less on SAT scores and more on individual capacity to excel as we shape our admissions policy."

While this had been the general understanding of how the admissions policies outlined in the *Athletic Policy Manual* were to be put into practice, President Brodie's letter clarified and acknowledged that practice. It is interesting to note that the clarification confirmed and established the same kind of "creep" effect in the admissions process that we have identified in other areas of the athletic program; that is, gradually, non-revenue sports have assumed the profile and characteristics previously reserved only for football and men's basketball.

In the period since President Brodie's letter, other events have continued this trend, most notably Christoph Guttentag's development of the concepts of the "reach" and the "stretch" for non-revenue scholarship sports. In 1994, Mr. Guttentag proposed that such sports have available to them on a limited basis these two classifications of admits in addition to their regular "spots". The "reach" actually represented the codification of established practice: "academic quality below the normal spot, in limited number, generally no more than one a year, and that only if the case is compelling." A "stretch," on the other hand, was something different, representing, in Mr. Guttentag's words, "a new level for non-revenue sports." The idea was that the academic profiles of stretches would more closely resemble admits in the revenue sports than had previously been possible.⁶

In the late nineties, a memo from Christoph Guttentag and Chris Kennedy to President Keohane and Provost Strobehn touched upon some of the larger admissions issues which will become steadily more pressing in the future. The occasion for the memo was a discussion of the appropriate number of slots to be conferred upon the new women's rowing program. But Guttentag and Kennedy took the opportunity to point out the ramifications of adding admissions spots to any given class:

Fundamental to this issue is a decision concerning institutional priorities. While academic and athletic excellence are not mutually exclusive, neither are they inevitably intertwined. The "cost" of winning teams is generally some decrease in the "academic quality" of the class. Making quantifiable indicators of academic ability the greatest priority means that we must either reconsider fundamentally how we are to approach athletics or resign ourselves to a static level of athletic competitiveness.

We find ourselves still facing these issues, as well as new ones. One example of such an issue is the trend toward early commitment to a university or, more accurately, a university's athletic program. The tendency over the last several years has been for high school students to identify the institution they want to attend earlier and earlier. The expectation is that the institution will reciprocate the interest and commit to the prospect at the same time. The consequence of this trend for academically selective institutions will be the pressure to make admissions decisions based on a decreasing amount of information. We recently, for example, received a commitment from a basketball prospect who just completed the tenth grade. Women's golf coaches at competing institutions have discovered that an effective way to recruit against Duke is to pressure students into making decisions in their junior year before Duke can currently make an admissions decision.

Moreover, changes in NCAA legislation will encourage the current trend toward earlier commitments in men's basketball and will lower the initial eligibility threshold for all incoming freshmen. While Duke has never adopted NCAA minimum academic requirements in making admissions decisions, it has adjusted its internal standards in response to changes in external standards. NCAA initial eligibility requirements have recently been adjusted to become a full

⁶Stretches are available only to scholarship programs. Coaches are limited to one stretch every two years and must give up a spot in the year the stretch is used and one more the following year.

sliding scale.⁷ It is now possible for a prospect with a 400 total score on the SAT to be eligible if his or her high school GPA were high enough. No one would expect the university to admit such a student, but in such a climate it may well be asked to consider students who would not currently be qualifiers. And while we still do not understand the full impact of Curriculum 2000, it is safe to say at this point that it is at least marginally more difficult than the previous curriculum.

Judging from the experience of our academically marginal student-athletes, we have probably adjusted our admissions standards as much as possible consistent with our desire to ensure satisfactory academic performance and high graduation rates. However, as a part of the plan to resurrect football, the Director of Admissions will consider admitting *more* applicants who reside at the lower reaches of our pool of admissible prospects. This means that the Department of Athletics must commit the necessary resources to the academic support and nurturing of these students if we are to ensure that our historically high graduation rates are not to suffer.

Academic support in the Department of Athletics has always been guided by the belief that Duke students of all kinds are responsible, mature individuals. Adherence to this principle results in a program which is constantly conscious of the need to maintain the balance between providing adequate support which helps student-athletes to succeed and providing too much support with the result that the student becomes and remains dependent. Ideally, the amount of support a student will need and receive, moreover, will decrease as the student matures and polishes his or her academic skills.

With the adjustment in admissions practices, it will be important to monitor closely the academic performance of student-athletes. Currently, the academic subcommittee of the Athletic Council reviews admissions data and the records of all student-athletes once a year. This review needs to be more rigorous and more frequent than in the past and to produce a formal report by the chair of the committee to the Provost.

Finally, the slight shift in admissions policy for football is not the first in a series of steps which continue to relax admissions standards. This is a one-time adjustment, the effects of which—both on the success of the football program and on the academic progress of student-athletes—will be carefully monitored and evaluated.

Title IX at Duke

At Duke, consideration of compliance with Title IX of the Higher Education Act began soon after it was enacted. As part of their deliberations concerning the reorganization of Physical Education and Athletics in 1975, Chancellor John Blackburn, Provost Frederic Cleaveland, and Vice President Charles Huestis concluded that the then-current structure (men's sports under the aegis of Athletics; women's under PE) "is not a reasonable solution . . . in terms of Title IX requirements." Having arrived at the decision to combine Athletics and Physical Education, they issued the following charge to the Chairman of the PE Department and the Director of Athletics: "act positively in formulating detailed steps to bring Duke University into full compliance with Title IX moving toward equal opportunity for all student athletes . . .

⁷ That is, there is no longer a required minimum score on the SAT or ACT in order to be eligible for competition as a freshman. A student with 400 on the SAT's would be eligible if he or she earned a high school GPA of 3.55 in 14 core courses.

regardless of sex.”

These good intentions notwithstanding, efforts to comply with Title IX languished throughout the 70's and most of the 80's, both at Duke and nationally. Indeed, Tom Butters, in March of 1984, recommended either dropping women's fencing, swimming, and gymnastics or relegating the entire women's program to Division II status. These recommendations were made even in the face of a Title IX complaint that had been lodged against the university in 1980. The resultant settlement with the Office of Civil Rights (OCR) merely required Duke to ensure that the percentage of athletic aid for women remained within three percent of the percentage of women participating in intercollegiate athletics. In negotiating this settlement, OCR clearly felt the constraints of the recent Supreme Court ruling in the case of *Grove City College vs. Bell*. Writing for the Office of Civil Rights, William H. Thomas said that “Duke University does not at this time receive any Federal financial assistance . . . for its athletic program in general, and therefore does not appear to be subject to the requirements of Title IX regulation at section 106.41.” Thus, consideration of *Grove City* resulted in a more limited settlement than would have otherwise been the case. The resultant peculiarity of this agreement was that it actually made it financially advantageous to keep women's participation rates down. It certainly did not have the effect of dramatically raising the rates of female participation and aid. In 1983-84, women received 25 athletic scholarships; five years later, in 1988-89, they received only 35 scholarships.

Although women's cross-country and track had been granted varsity status in 1986 (without scholarships and simultaneous with the elimination of women's gymnastics), it wasn't until the addition of women's soccer in 1988 that the serious effort to achieve compliance with Title IX began. Although there are no explicit references to the Civil Rights Restoration Act of 1987 in internal Duke documents, it now seems improbable that the mounting of sustained efforts at compliance in the late eighties and throughout the nineties was entirely coincidental. This is particularly likely in light of the law suits which were filed during this period against a variety of institutions across the country alleging discrimination on the basis of gender in their athletic programs.

The general consciousness that Title IX was an ever more pressing issue coalesced in Tom Butters' decision to form a Task Force on the Scope of the Intercollegiate Athletic Program in 1994.⁸ The immediate impetus for this decision was the request for varsity status, during the spring of 1994, by the women's lacrosse and rowing clubs. The task force was instructed “to review our current program and to consider the most plausible contenders for new varsity sports, with the goals of evaluating the philosophy behind our program and recommending whether changes should be made in its composition.” In June of 1994, they recommended adding a women's sport immediately, possibly dropping a men's sport, anticipating the addition of a second women's sport in several years, and creating a category of “super-club” sports. Ultimately the goals of this plan were to equalize the number of men's and women's teams at 13 while increasing women's participation rates to 40% and scholarship rates to 37%. These goals were calculated under the misapprehension that the Office of Civil rights found a five percent variance between participation/aid rates and enrollment to be acceptable. In fact, various courts have set different standards in this regard.

⁸The members of this task force were Tom Spragens, Kate Hendricks, Joe Allewa, and Jacki Silar.

Proceeding under these recommendations, the Athletics Department hired a varsity women's lacrosse coach in January of 1995 and competed in the first season of women's lacrosse in the spring of 1996. Shortly thereafter, in the fall of 1997, two events inspired a re-evaluation of the university's approach to Title IX: the NCAA Certification process and a complaint against Duke filed with OCR by the National Women's Law Center.

In the course of evaluating the university's commitment to equity, as required by the NCAA certification process, athletics officials concluded that the goals of the 1994 plan needed to be adjusted to respond to what had been happening in the courts. While different districts ruled differently in the matter of a permissible variance between enrollment and participation/athletic aid, it was clear that reliance on a five percent variance was unwise. Moreover, the high level of athletic expertise achieved by women by this time virtually demanded an increased level of commitment to equitable treatment by the university. That is, the Department of Athletics recognized that an aggressive approach to compliance with Title IX was not only the prudent thing to do, but, more importantly, the right thing. Accordingly, the university gender equity plan was adjusted to add 34 new scholarships by 2001-02, if possible, but no later than 2002-03. This would bring the rate of women's aid to 45%, within two percent of women's current enrollment. The 1997 plan was also significantly more comprehensive than previous plans, encompassing operating budgets, coaches' salaries, and facilities, as well as the detailed financial plan to achieve proportionality.

As the university was nearing completion of NCAA certification, the National Women's Law Center filed a complaint against Duke and 24 other universities and colleges alleging discrimination in their athletics programs. Consequently, the university entered into negotiations with the Office of Civil Rights to reach a settlement of this claim. The settlement, finalized on March 26, 1999, required Duke to keep women's athletic financial aid rates within one percent of women's participation rates.⁹ This was consistent with OCR's recent "policy interpretation" (July 23, 1998): "an unexplained disparity of more than 1% is in violation of the 'substantially proportionate' requirements." Duke was required to report biannually to OCR concerning its participation and aid rates through October, 2002. In complying with this standard, the university was aided by the recent decision to accord varsity status to women's rowing. Consistent with its standard practice, OCR gave Duke "credit" for as-yet-unawarded rowing scholarships in these biannual calculations. Consequently, the university was able to stay within the established parameters, so successfully, in fact, that OCR released Duke from its reporting obligation a year early, saying "the University's clear commitment to its responsibilities under Title IX indicates that there is no need to continue monitoring the University in this matter."

In 2001-02, women at Duke received approximately 41.5% of athletic financial aid while representing about 42.5% of the total participants. The aid figures were somewhat distorted by an unusual number (for Duke) of scholarship women either leaving the university or surrendering their aid. In 2002-03, it is anticipated that women's financial aid will reach the target of 45% and that participation rates will be in the 45-46% range, thus navigating the university into the "safe harbor" of the first "prong" of OCR's prescribed means of compliance with Title IX: substantial proportionality.

⁹It should be noted that this settlement was based solely on aid and participation rates, without regard to enrollment figures among the student body at large.

Having achieved the statistical goals laid out in our equity plan, we must, in the future, never lose sight of the perhaps more important and certainly more immediate manifestation of true equity in an athletics program: how it feels to be a participant every day. Aggregate numbers are helpful as indicators of the over-all state of a program, but they mean little to the participants themselves. Equity for them is expressed in the condition of their locker rooms, the quality of coaching, the strength of their playing schedules, accommodations on road trips, and all the other day-to-day activities in the lives of student-athletes. Our goals, then, are two-fold: to maintain statistical compliance with Title IX and to provide an athletic experience that is equally rich and satisfying to athletes of both genders.

A Departmental Structure for the Future

What departmental structure puts us in the best position to face these challenges while still achieving our departmental and institutional goals? Is the current structure, which is an amalgam of recent calculated planning erected on a foundation of history and tradition, the best one? We undertook a study sketching hypothetical alternative structures and found that models which, in effect, “tweak” current practice do not enhance our opportunities to meet our goals. Indeed, most are unsatisfactory on a number of grounds (not compliant with Title IX, not compliant with NCAA requirements, etc.).

If we are to evaluate the best possible course for Duke Athletics, we need to realize that there are really only three alternative structures and philosophies: 1) maintain our present course, characterized by a combination of scholarship, nationally competitive programs and non-scholarship, regionally competitive programs; 2) undertake the expanded commitment required to finish in the top five of the Sears Cup every year; 3) de-emphasize varsity athletics and compete at the NCAA Division III level.

Our present department is attempting to fulfill a number of missions through its tiered structure. We sponsor a mixture of sports which are perennially competitive on the highest national level and sports that are competitive regionally on a significantly lower level,¹⁰ but which nonetheless provide the benefits of athletic participation to the competitors and to the institution. Moreover, this structure is both the product and the conveyer of years of tradition, of memorable victories and honorable defeats, of the long athletic history of the university. Such a program is not to be dismissed or thrown away lightly.

An alternative, nonetheless, is to restructure (and refinance) the department in order to win, or be competitive for, the Sears Cup (see Table 1). Such a program would require that all sports be funded to the NCAA maximum and that coaching staffs in women’s track, rowing, and all the “third tier” sports be augmented.

¹⁰ Wrestling, swimming, men’s track, fencing. These teams are competitive at lower NCAA levels (e.g., vs. UNC-Wilmington, Washington and Lee, etc.), but not within the ACC and certainly not nationally.

Table 1							
Women's Sport		\$	Participants	Men's Sport		\$	Participan
X-C/Track		18	40	Football		85	90
Rowing		20	65	Golf		4.5	10
Field Hockey		12	22	Lacrosse		12.6	40
Golf		6	6	Soccer		9.9	26
Basketball		15	16	Tennis		4.5	10
Lacrosse		12	30	Basketball		13	15
Soccer		12	26	Baseball		11.7	26
Tennis		8	10	X-C/Track		12.6	40
Volleyball		12	14	Fencing		4.5	15
Swimming		14	30	Swimming		9.9	30
Fencing		5	15	Wrestling		9.9	30
Total		134	274	Total		178.1	332
Total scholarships:			312.1 (+76.9)				
Total participants:			606 (+12)				
% female scholarships:			43 (+2%)				
% female participants:			45 (+2%)				

The advantage of such a structure is that it gives all the programs the university sponsors the capacity to be nationally competitive year-in and year-out. On the other hand, 76.9 additional scholarships would increase the cost of athletic financial aid alone by approximately \$2,815,847 (at the 2002-03 rate). Of the top 30 finishers in the Sears Cup standings in 2001-02, Duke's financial aid costs (\$7,998,000) were the third highest, behind Stanford and Michigan. At the same time, Duke's total athletic department budget (\$28,727,000) was the fifth lowest. To consistently finish among the leaders for the Sears Cup, we would in all probability have to increase operating budgets across the board. This would require a significant reallocation of existing university resources, which is not currently possible. In addition, the gap between athletic admits and "regular" admits would widen with the increase in the number of scholarships offered. That is, the proportion of athletic admits which diverge significantly from "normal" admissions standards would increase. We would also sacrifice the notion of non-scholarship sports which promote individual achievement and personal improvement.

Finally, the other true alternative is the most radical of all: do away with athletic scholarships, withdraw from the ACC, and compete at the Division III level. The immediate consequences of such a step would be dramatic. The elimination of approximately 235 scholarships would save the university about 8.6 million dollars (although how much of this cost would then shift to other forms of student aid is impossible to predict). Additional savings would be realized as a result of the inevitable contraction of coaching staffs, and perhaps even of squad sizes. Moreover, shorter practice seasons and fewer contests translate into less travel, lower medical expenses, lower games operations expenses, etc. At the same time, however, virtually all revenue from men's basketball (\$8.7m) and football (\$5.8m) would, of course, disappear.

The chief benefits of this alternative would be some financial savings and considerable reduction in the number—and nature—of our admissions compromises. But such benefits would come at considerable cost. The long and illustrious athletic history of the university is a source

of pride to alumni, students, and staff. Duke's athletic events have been a productive rallying point for development and alumni officers. The success of our high-profile teams has generated incalculable national and even international publicity for the university. While the effect of this publicity is difficult to quantify, few would disagree that it has had a positive impact on the university's image and is felt among alumni, donors, and prospective students. Within the immediate Duke community, moreover, varsity athletics encourages and fosters a sense of community that would be difficult to replace or replicate through other means. Many graduates, when asked to name their best memories of Duke, place the experience of Cameron Indoor Stadium high among them.

We would also find ourselves with recently completed or renovated Division I facilities—at a cost of some \$60 million dollars—which are grossly out of proportion to the needs of a Division III program. In making such a change we will have broken faith with literally thousands of donors whose contributions paid for the facilities necessary to sustain our teams at the highest levels. Indeed, we would have perpetrated a kind of “bait and switch” fraud on our donors.

The deleterious effects of a radical retrenchment of our athletic program, some of them intangible, some hard to predict, are nonetheless certain to be profound and to raise considerable bitterness, anger, and resentment across the entire spectrum of Duke graduates and lovers of the university. The problems and challenges that we currently face would have to be considerably more acute and intractable than they currently are for us to seriously consider this alternative.

Conclusion

Our conclusion, then, is that the structure of the current program will serve the university well in the next decade. We do not believe that we need to fundamentally change what we are attempting to do or how we are attempting it. In some programs, we need to find ways to achieve our current goals more effectively, but within the current structure and philosophy, as embodied in the tiered nature of the department. We do not believe that the athletics program imposes an unjustifiable financial or academic burden on the university. We recognize, however, that the fluidity of the current environment will require more regular evaluation of the structure, goals, and operation of the department to ensure their continued compatibility with the larger structure and goals of the university.

For the immediate future, the status of the various tiers of sports can be summarized:

Football: A plan is in place to revitalize the program, including improvements in recruiting and facilities, the retention of quality coaches, and adjustment of admissions practices.

Men's basketball: The men's basketball program has the necessary resources, including competitive coaches' salaries, to continue to perform at an extremely high level. Our commitment to the academic support of the players needs to remain high.

Women's basketball: Women's basketball also has sufficient resources to remain in the top five annually and to challenge for the national championship. It will be important to continue our aggressive campaign to promote the sport in the area.

Women's non-revenue scholarship sports: Construction of a boathouse for women's rowing, currently in the planning stage, is the most pressing facility need for women's athletics. In addition, we need to make sure that we complete the fund-raising campaign to endow the additional women's scholarships that will bring us into compliance with Title IX in 2002-03. With the renovation of Card Gym and the Murray Building--and upon completion of the boathouse-- facilities for women student-athletes will be outstanding for the foreseeable future.

Men's non-revenue scholarship sports: As with the women's programs, the Card and Murray renovations have greatly improved facilities for these teams. The success of these programs speaks to the adequacy of their current support.

Non-revenue, non-scholarship sports: In these programs, where national or conference championships are unlikely, we need to ensure that students continue to feel that they have been provided with everything necessary to be as successful as possible. The measure of success among these teams is, to some extent, how the participants feel about their experience as Duke student-athletes. The key is to continue to provide high quality coaching, which is the most important factor in the students' feelings about their sport and themselves.

While President Sanford's criteria for sponsoring an intercollegiate sport and the goals he identified for the athletic program as a whole may have been modified in practice to some degree, much of what he articulated is still valid. Our program should continue to "produce positive attitudes and general support from both the student body and alumni and friends of the university." The sports we sponsor "should reflect not only long-standing Duke athletic traditions but also . . . the special talents of its [current] students." We should ensure that athletics continues to "provide collateral institutional benefits for Duke University." And, as he warned, we cannot forget that the scope of the program must remain within the university's ability to fund at a level that will continue to produce competitive teams and individuals.

Finally, we need to make sure that we never lose sight of the irreducible educational values that support the presence of an intercollegiate athletics program on a college campus: personal and social development, dedication to sportsmanship and fair play, promotion of a healthy lifestyle, development of the whole person, fostering of a sense of community, and the consistent pursuit of excellence in all we do.

Appendix II

Roles of the Faculty Athletics Representative and Chair of the Athletic Council at Duke University

With the creation of a separate position of the Chair of the Athletic Council (CAC), the duties of the Faculty Athletics Representative (FAR) have changed. In this document the major responsibilities of the two positions are detailed. Both positions retain the need to interact broadly within and outside the Athletic Department, and to provide advice and information to various entities. The CAC largely reports to the faculty and the Academic Council (and ECAC); the FAR to the President. In the role as Chair of the Academic Subcommittee of the Council, the CAC also reports to the Provost. The Athletic Director and others in the Athletic Department should feel free to call on either or both representatives for advice from a faculty member's perspective, although the FAR retains a more formal relation with the Athletic Director as Duke's representative to the ACC. Below is an informal summary of the responsibilities, however as these positions evolve these duties are expected to evolve.

In addition to these general roles, the duties of the positions include:

Chair of the Athletic Council (CAC)

The athletic council and it's business is largely the responsibility of the CAC, however the FAR will chair the Compliance Committee, and be responsible for activities relating to that committee. General breakdown of duties are:

- Organizes meetings, sets agendas, and assists the President in appointment of members to the Athletic Council (CAC)
- Organizes and chairs meetings of the academic committee (CAC)
- Manages the Athletic Policy Manual – reviews for necessary changes, provides reports on appropriate changes to the President and Board of Trustees (who are authorized to actually make the changes). (CAC)
- Prepares formal reports of council activities to the President (overall) and Provost (academic subcommittee). (CAC)
- Reports as necessary to ECAC and Academic Council. (CAC)
- Communicates with Provost, academic deans and director of admissions on regular basis to discuss issues of student athlete admission, progress and integration into community. (primarily CAC, but also FAR)
- Participates in reports to the Board of Trustees as deemed necessary by the President (CAC & FAR).
- Serves on major search committees involving athletic department personnel. (FAR & CAC as appropriate)
- Works intensively on NCAA certification (equivalent to major accreditation effort; once every 10 years). (FAR & CAC)
- Receives “student athlete misconduct reports” from the Compliance Office (FAR & CAC)
- Conducts interviews of current athletes, faculty members and academic and athletic administrators to assess academic programs and student welfare (CAC, FAR and Academic Subcommittee)
- Conducts annual exit interviews of graduating student athletes (FAR, CAC and Academic Subcommittee).

- Meets with President and senior officers at times when major policy issues regarding athletics are on the table. (FAR & CAC as appropriate)
- Meets on regular basis with President for discussion of variety of athletic issues. Available for advice at any time. (CAC and FAR)
- Serves on various ad hoc committees involving athletic issues (CAC and FAR as appropriate)

Formal on-campus duties of FAR

- A number of activities are appropriately shared between the CAC and FAR, and many of these are listed above.
- Is responsible for formal student athlete appeals as defined in the Athletic Policy Manual (FAR)
- Participates in annual exit interviews of graduating student athletes (FAR, CAC and Academic Subcommittee).
- Nominates student athletes for scholarships and honorary awards (conference and NCAA). (FAR)
- Formally oversees NCAA eligibility certification process (eligibility certification performed by the Registrar). (FAR)
- Organizes and chairs meetings of the Compliance Subcommittee (FAR)
- Is involved in various appeals of ACC or NCAA regulations when necessary. (FAR)
- Audits violations and Duke's responses to violations. (FAR)

Representation of Duke at the ACC and other organizations (largely the FAR).

- Attends meetings of the conference. (FAR)
- Reviews all legislation, and makes recommendations for Duke's and the ACC's voting position. (FAR in consultation with various constituencies)
- Serves as an officer of the ACC following normal rotation. (FAR)
- Serves on misc. ACC committees. (FAR)
- On occasion represents Duke and/or the ACC at the NCAA and FARA conventions. (FAR)
- Participates in other national organizations regarding athletics. (FAR & CAC)
- May represent the conference on a major NCAA committee. (FAR)

Performs certain tasks assigned by the conference and NCAA (FAR)

- Administers NCAA recruitment regulation test to all coaches on an annual basis (FAR and CAC as necessary).
- Signs off on/certifies variety of paperwork (FAR).
- Administers NCAA sponsored surveys (FAR).

President's/faculty's eye/representative in athletics (Both CAC and FAR)

These are less formal responsibilities, but are activities that will enhance both the CAC and FAR to perform their job better. They are best defined as shared/joint responsibilities of these two positions.

- Is an active participant in the activities of the athletic department on behalf of the academic side of the University.
- Serves as an advisor to the Director of Athletics (formally FAR)
- Establishes and maintains strong relationships with senior athletic department staff and coaches of major teams.
- Is in frequent communication with directors of compliance and academic support.
- Serves on search committees and/or interviews candidates for head coaching positions.
- Maintains a sufficient presence so that individuals in the athletic department would feel comfortable contacting the individual for advice.
- Attend a variety of athletic events (sporting and social) to become a familiar, supportive presence to coaches, staff and to what extent possible student-athletes.
- On occasion travels with teams to gain closer relation with coaching staff and students, and also assess demands on student time/energy.
- Becomes familiar with individuals involved in athletic fundraising.
- Works as possible with the student athlete advisory committee.
- Communicates regularly with academic support services to monitor athlete progress and available support services.